

IN THE UNITED STATES DISTRICT COURT  
FOR DISTRICT OF SOUTH CAROLINA

James Anderson McClellan,

Plaintiff,

v.

Brian Stirling,

Defendant.

C/A No. 9:24-cv-3458-SAL

**ORDER**

James Anderson McClellan (“Plaintiff”), proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. § 1983 against Brian Stirling (“Defendant”) alleging his clothes were taken away while hospitalized in May 2023. On August 13, 2024, United States Magistrate Judge Molly H. Cherry issued a Report and Recommendation (“Report”) pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), recommending that the Court summarily dismiss this action for a number of reasons, including that Plaintiff failed to assert allegations against Defendant or otherwise allege claims to establish supervisory liability as required by § 1983 and that Plaintiff failed to exhaust state remedies. [ECF No. 6.] Attached to the Report was a notice advising Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. *Id.* at 8. Plaintiff has not filed objections, and the time for doing so has expired.

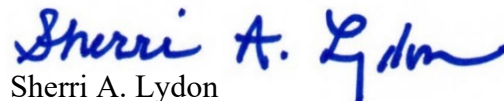
The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After reviewing the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 6, and incorporates it by reference herein. As a result, Plaintiff’s § 1983 petition is **SUMMARILY DISMISSED WITHOUT PREJUDICE, WITHOUT LEAVE TO AMEND, and WITHOUT ISSUANCE and SERVICE OF PROCESS.**

**IT IS SO ORDERED.**

October 2, 2024  
Columbia, South Carolina

  
Sherri A. Lydon  
United States District Judge